

## **REMARKS**

Claims 13-24 are pending, and stand rejected.

Claims 14-24 are objected to.

Applicants acknowledge the Examiner's objection to claims 14-24 in view of inadvertent dependency upon previously cancelled claims. Applicants have amended the claims to obviate this rejection.

Applicants acknowledge the Examiner's rejection of claims 13-24 U.S.C. § 103 (a), as being obvious over Davis et al., (US 6,282,522), in view of Ogram (US 5,991,731). Applicants respectfully traverse this rejection.

## **FORMALITIES**

*Claim objections.* The Examiner objected to claims 14-24 in view of inadvertent dependency upon previously cancelled claims. Applicants have, as described above under "In The Claims," amended the claims to achieve proper dependency. Support for the amendments is found, for example, in the original claim set. No new matter has been added.

Applicants respectfully request withdrawal of this objection.

### ***Rejections under 35 U.S.C. § 103(a)***

*Davis in view of Ogram:*

The Examiner rejected claims 13-24 U.S.C. § 103(a), as being obvious over Davis et al., (US 6,282,522), in view of Ogram (US 5,991,731).

Specifically, the Examiner states, with respect to claims 13-24, that Davis teaches a

method of making a financial transaction over the internet comprising: electing, by a purchaser, to pay for selected items from a merchant by credit card means using a virtual credit card terminal (VCT) comprising credit card means reader, a digital processing device operatively associated with said credit card means reader and encoding transaction programs that allows opening of an interactive terminal window for processing of the transaction, and wherein said virtual credit card terminal is registered with a VCT gateway (citing Davis at col. 7, lines 7-10); providing the purchaser with a transaction number from said VCT gateway (citing Davis at col. 13, lines 58-59), a merchant identification and an amount to transact from the merchant, wherein said merchant is registered with said VCT gateway (citing Davis at col. 13, lines 60-61); entering, by the purchaser, details of credit card means into the virtual credit card terminal to facilitate formation of a VCT transaction request (citing Davis at col. 14, lines 1-7); sending the VCT transaction request to said VCT gateway (citing Davis at col. 14, lines 1-7).

The Examiner further states that while “Davis does not explicitly teach processing the VCT transaction request by the VCT gateway to facilitate formation of a bank transaction request; sending the bank transaction request from the VCT gateway to a bank; processing the bank transaction request, whereby advice is sent from the bank to the VCT gateway as to whether the transaction has been approved; and sending the advice from the VCT gateway to the merchant and the purchaser, wherein if the transaction has been approved, providing the merchant and the purchaser with a transaction authentication code [claim 14]; providing, by said purchaser, the merchant with delivery details; and providing, by said merchant, said purchaser with a merchant receipt”, Ogram nonetheless teaches processing the VCT transaction request by the VCT gateway to facilitate formation of a bank transaction request; sending the bank transaction request from the VCT gateway to a bank; processing the bank transaction request, whereby advice is sent from the bank to the VCT gateway as to whether the transaction has been approved; and sending the advice from the VCT gateway to the merchant and the purchaser (citing Ogram at col. 2, lines 22-40), wherein if the transaction has been approved, providing the merchant and the purchaser with a transaction authentication code (citing Ogram at col. 4, line 51); providing, by said purchaser, the

merchant with delivery details; and providing, by said merchant, said purchaser with a merchant receipt” (citing Ogram at col. 74, lines 29-39), and that “one would have been motivated to do so in order to ensure that the transaction is valid and the purchaser has sufficient funds to complete the transaction.”

Applicants respectfully traverse this rejection.

Applicant’s Traversal:

Applicant respectfully traverses the Examiner’s obviousness rejection, based on the fact that no *prima facie* case of obviousness is supportable in view of the asserted references alone or in combination, because (a) there is no suggestion or motivation embodied in the asserted art alone or in combination, even in view of knowledge generally available to one of ordinary skill in the art, to arrive at Applicant’s invention, and (b) even if there were, there is no reasonable expectation of success based thereon where the references fundamentally *teach away* from the present invention, and (c) the references do not, in fact, teach all the claim limitations, and further teach elements that would preclude provision of the presently claimed subject matter.

APPLICABLE LAW. To establish a *prima facie* case of obviousness there must be: (i) a suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (ii) a reasonable expectation of success; and (iii) the prior art reference(s) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on Applicant’s disclosure (*In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); and see MPEP §§ 2143-2143.03). Therefore, to support a conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references. Moreover, there can be no reasonable expectation of success where the art, alone or in combination, *teaches away* from the invention.

The Asserted Art:

*Davis in view of Ogram:*

*Davis*. Specifically, *Davis* teaches, the use of ‘stored value cards’ (i.e., prepayment card, cash card, or decrement in value card), in an internet connected architecture comprising: (i) a ***client terminal*** with card reading means to read the stored-value card; (ii) a ***payment server*** with ‘security card control ‘having security card access to authenticate the stored value card and decrement value of the card; and (iii) ***merchant server***. Using this architecture, a User (client consumer) browses merchant goods over the internet, selects the stored-value option offered by the Merchant, inserts the stored-value card into the *client terminal* card reading means to obtain a balance, and approves the purchase for the displayed purchase amount, whereupon the purchase amount is deducted from the stored-value of the card, and the transaction is captured by the security card linked to the *payment server* or by the *Merchant server* for subsequent reconciliation /settlement through existing clearing and administration system (Davis at col.6, line 23 through col. 7, line 35, and see also col. 10, lines 30-65). In essence therefore, the networked security and authentication system of Davis obviates the need and methodology of an actual (physical) service payment terminal where a stored-value card is placed into the terminal for authentication of the stored-value card by the corresponding security card in the terminal. Davis obviates the need for such a physical terminal by linking the security cards to the *payment server*, such that ‘authenticating’ and ‘value decrement’ can occur on-line.

Additionally, and significantly there is no requirement in Davis for Bank transaction requests, because Davis teaches the use of stored-value (i.e., cash cards), and authentication by *security cards*, such that Bank approval is not required, and is thus not sought. Significantly, Davis teaches that “advantageously, a customer may make use of pre-existing stored-value cards for purchases over the Internet without any prior arrangement of an account, purchases of credits or tokens, or establishment of a new relationship with a bank or other company” (Davis at col. 7, lines 21-25). Finally, upon logging of the transaction into the payment server database, the

payment server builds a result message containing the identification of the transaction and 'signs' it. The message is then routed to the merchant server *via* the client server, and not directly to both the client and Merchant servers.

Therefore, Davis explicitly and purposefully teaches stored-value cards, not credit cards, and accordingly not only teaches away from obtaining bank authorizations, but specifically and explicitly teaches away from Bank transaction requests from the payment server.

**Ogram.** Specifically, Ogram, like Davis, teaches communication between a *Merchant computer computer* and a *customer's computer* (client terminal), and additionally teaches that the *customer's computer* is linked to a *payment processing computer* that receives, from the *customer's computer*, a customer's credit card number and the amount of the Merchant's goods to be purchased. The *payment processing computer* automatically contacts a bank for verification of the credit card and authorization of the purchase amount, and the bank transmits such authorization back to the *payment processing computer*, but not to the Merchant. The *payment processing computer* communicates a self-generated transaction indicia (that includes an authorization number) and a 'password' to the *customer's computer*, which uses the transaction indicia to verify that an order has been generated and accepted. The *customer's computer* then provides the 'password' to the *Merchant's computer* in order to obtain access to protected information or, as the case may be, to establish shipping instructions for the authorized goods (Ogram at Abstract; at col. 2, lines 7-44).

In contrast to the instant claimed subject matter, and referring the Examiner's own citation of col. 2, lines 22-40, the *payment processing computer* of Ogram does not communicate authorization to the Merchant computer and does not link to the *Merchant computer* for this purpose. Rather in Ogram, the *Merchant computer* defines a 'password' that is provided to *payment processing computer*, and upon authorization of the transaction by the *payment processing computer*, the password is transmitted by the *customer's computer* to the Merchant's computer. By contrast, the instant methods do not burden the Merchants by requiring them to provide any 'passwords' to the VCT gateway, rather the VCT gateway provides a transaction

number to the Merchant. Additionally, the VCT gateway of the instant invention provides transaction authentication code to both Merchant and VCT purchaser (customer) to provide an added layer of security.

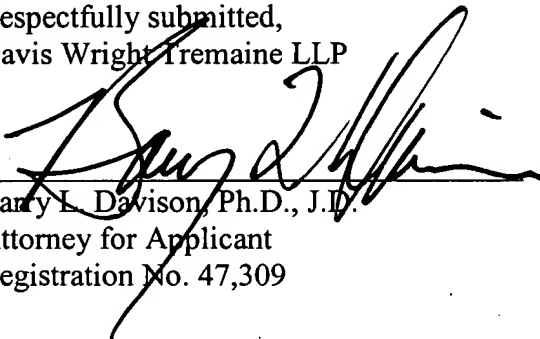
Therefore, Davis, alone or in combination of Ogram, does not teach or suggest the instantly claimed subject matter, and rather teaches away in material respects from Applicants' claimed subject matter.

Applicant's, therefore, respectfully request withdrawal of the present rejection of claims

### CONCLUSION

In view of the foregoing amendments and remarks, Applicants respectfully request entry of the present Amendment and allowance of the amended claim set provided herein. The Examiner is encouraged to phone Applicants' attorney, Barry L. Davison, to resolve any outstanding issues and expedite allowance of this application.

Respectfully submitted,  
Davis Wright Tremaine LLP



Barry L. Davison, Ph.D., J.D.  
Attorney for Applicant  
Registration No. 47,309

Davis Wright Tremaine LLP  
2600 Century Square  
1501 Fourth Avenue  
Seattle, Washington 98101-1688  
Telephone: 206-628-7621  
Facsimile: 206-628-7699